(61)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 2608 OF 2003

Petitioner :1. Shankar S/o Gorelal Kapoor Singh Daphai, PO Chirmiri, Distt. Korea.

2. Janki Bai Widow of Late Gorelal Kapoor Singh Daphai, PO Chirmiri, Distt. Korea

Versus

Respondents :1. South Eastern Coalfields Limited Through its Chairman-cum-Managing Director, Seepat Road, Bilaspur (C.G.).

Sub Area Manager, Chirmiri Colliery, PO Chirmiri, Distt. Korea.

Present: Shri Gary Mukhopadhyay, counsel for the petitioners.
Shri P.S. Koshy, counsel for the respondents.

ORAL ORDER

(3rd February, 2006)

1. Learned counsel for the petitioner submits that the father of the petitioner No. 1 and husband of the petitioner No. 2, who was working as General Mazdoor in Chirmiri Open Cast Mine, died on 10.2.1988 in harness.
2. Thereafter, his wife/petitioner No. 2 applied for appointment on compassionate basis. Her application was rejected vide order dated 27.10.1994 (Annexure P-4). The petitioner No.1 thereafter applied for compassionate appointment.

Application of the petitioner No. 1 was also rejected vide order dated 1.10.2002 (Annexure P-6).

3. Shri P.S. Koshy, learned counsel appearing for the respondents No. 1 and 2 submits that the application of the petitioner No. 2 was rejected on the ground that employment of a female is not permitted in the mines.

4. National Coal Wages Agreement-IV (Annexure P-2) provides for appointment of one dependant of the worker who dies, while in service. At the time of death of the father of the petitioner No. 1 and the husband of the petitioner No. 2, the petitioners were dependants. Clause 9.4.2 on N.C.W.A.-IV reads as under :-

> "9.4.2 Employment of one dependant of the worker who dies while in service
>
> (i) The dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, younger brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependants of the deceased.
>
> (ii) The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit shall not apply in the case of spouse."

5. In view of the above stated provisions in N.C.W.A.-IV, which governs the compassionate appointment, the respondents are

directed to consider the case of the petitioner No. 1, in accordance with law, as applicable at the time of making the application for appointment on compassionate ground within a period of six weeks from the date of receipt/production of a copy of this order.

6. For the reasons stated above, the writ petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu